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Kevin J. O'Connor
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VIA ECF

March 29, 2011

New York
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Chicago
London

Honorable Arlene R. Lindsay
Honorable E. Thomas Boyle
United States Magistrate Judge
Eastern District of New York
Long Island Federal Courthouse
100 Federal Plaza
Central Islip, New York 11722-4451

RE: Allen v. Devine, et al., No. 09 Civ. 0668 (ADS) (ETB)
Excelsior v. Devine, et al., No. 10-CV-1319 (ADS) (ARL)
Our File No.: 5122/196500

Dear Judges Lindsay and Boyle:

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We are counsel to Christopher Devine, a defendant, counterclaimant and third-party plaintiff in *Allen v. Devine, et al.*, No. 09 Civ. 0668 (ADS)(ETB) ("*Allen*") and a defendant and third-party plaintiff in *Excelsior v. Devine, et al.*, No. 10-CV-1319 (ADS)(ARL) ("*Excelsior*") (together, the "Related Actions"). On March 17, 2011 a suggestion of death was filed on behalf of C. Robert Allen, III ("Bob Allen"), plaintiff and counterclaim defendant in *Allen* and third-party defendant in *Excelsior*. Bob Allen's son, Luke Allen, is a third-party defendant in *Allen* in his own capacity, a plaintiff and counterclaim defendant in *Allen* as Guardian for the Property Management of C. Robert Allen, III ("Guardian"), and a third-party defendant in *Excelsior* in his capacity as Guardian. Mr. Devine does not seek any relief at this time, however, we wish to bring to the Court's attention that this development may slow down discovery in the Related Actions.

Counsel for Bob and Luke Allen, Cohen & Gresser, has taken the position that, due to Bob Allen's death, it no longer represents any party to either of the Related Actions. Due to this development – and particularly in light of the fact that there were pending discovery disputes with both Bob and Luke Allen at the time the suggestion of death was filed – the parties in the Related Actions are currently unable to fully proceed with discovery until a proper party is substituted for Bob and Luke Allen.

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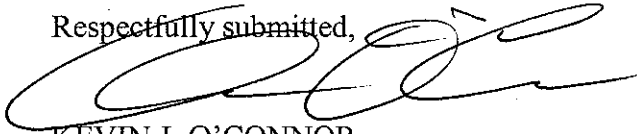
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As the Court is aware, Your Honors so-ordered a joint discovery schedule for the Related Actions on February 14, 2011. At this time, it is unclear how long it will take for an executor for Bob Allen's estate to be appointed. We therefore wish to inform the Court that, depending upon the length of time taken to appoint an executor for Bob Allen's estate and substitute the estate as a party in the Related Actions, it may be difficult for the parties to complete discovery by the current deadlines.

We will keep the Court apprised of further developments, and will make every effort to adhere to the current discovery schedule.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Kevin J. O'Connor', is written over the typed name.

KEVIN J. O'CONNOR

KJO:ci

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Enclosures

cc: All counsel of record by ECF